

By: Senator(s) Hewes, Gollott

To: Ports and Marine Resources

SENATE BILL NO. 2535
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 49-27-71, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE IMMEDIATE REMOVAL OF SUNKEN OR SUBMERGED VESSELS
3 THAT ARE A HAZARD TO NAVIGATION; TO MAKE TECHNICAL REVISIONS TO
4 THE REMOVAL OF DERELICT VESSEL REQUIREMENTS; AND FOR RELATED
5 PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** Section 49-27-71, Mississippi Code of 1972, is
8 amended as follows:

9 49-27-71. (1) (a) The department may remove from the
10 coastal wetlands, as defined in Section 49-27-5(a), Mississippi
11 Code of 1972, or from any private or manmade canal with a
12 navigable connection to coastal wetlands, any vessel which is
13 derelict, or has been determined by the department to be a public
14 safety or environmental hazard, having been relinquished, deserted
15 or left by the owner with the intention of abandoning the vessel.
16 Any vessel submerged in or on the coastal wetlands or submerged in
17 any private or manmade canal, with a navigable connection to
18 coastal wetlands, in excess of thirty (30) days is declared
19 abandoned and a derelict vessel. For the purposes of this
20 section, no vessel submerged more than one hundred (100) years
21 will be considered derelict.

22 (b) Any owner or operator of a derelict vessel shall be
23 liable to the State of Mississippi for the restoration of all
24 affected coastal wetlands and all costs associated with the
25 removal of the vessel.

26 (2) (a) If the last known owner or operator of a derelict
27 vessel is ascertainable, the owner or operator shall be notified
28 by certified mail to remove the derelict vessel and restore the



29 affected coastal wetlands within thirty (30) days of the date of
30 the notice. Failure to remove the vessel may result in the
31 imposition of the damages provided in subsection (3).

32 (b) When the owner or operator of the derelict vessel
33 is unknown or cannot be located after diligent search and inquiry,
34 notice shall be given by publishing in a newspaper having general
35 circulation in the county where the derelict vessel is located the
36 intent to remove and dispose of the derelict vessel. The notice
37 shall be published once a week for three (3) consecutive weeks.
38 The derelict vessel may be removed ten (10) days after the last
39 date of publication.

40 (c) The municipality or county where the vessel is
41 located may remove the derelict vessel or request the department
42 to contract for the removal of the derelict vessel. The cost of
43 the removal of the derelict vessel shall be paid by the
44 municipality or the county where the vessel is located. If the
45 county or municipality cannot pay the cost of removal, the
46 department may pay the cost of removal, if funds are available.

47 (d) Any derelict vessel salvaged may be destroyed or
48 otherwise disposed of without additional notice to the owner or
49 operator and the value thereof, if any, applied as an offset to
50 the cost of the removal of the derelict vessel and restoration of
51 the affected coastal wetlands.

52 (e) If an owner or operator is subsequently identified,
53 the owner or operator shall be liable for double the cost of the
54 removal of the derelict vessel and the restoration of the affected
55 coastal wetlands, attorneys' fees and all costs of court. Upon
56 recovery of these damages, the county, municipality or department,
57 as the case may be, shall be reimbursed the costs of the removal
58 of the derelict vessel and restoration of the coastal wetlands.

59 (f) In addition to providing notice by publication or
60 to the known owner or operator, notice shall be sent by mail to
61 the Mississippi Department of Archives and History for a



62 determination as to whether the vessel to be removed is of
63 archaeological, historical or architectural significance under the
64 state antiquities law. The Department of Archives and History
65 shall respond within thirty (30) days to the notice and advise
66 whether or not the vessel should be preserved.

67 (3) The chancery court of the county where the vessel is
68 located shall have jurisdiction and by writ of mandatory
69 injunction, order the removal of the * * * vessel by the owner or
70 operator. The chancery court shall allow a reasonable time for
71 completion of the restoration of the coastal wetlands and removal
72 of the * * * vessel. The chancery court may, in its discretion,
73 order as damages a sum not to exceed Five Hundred Dollars
74 (\$500.00) per day for each day such violation has existed. The
75 chancery court may further order as damages a sum not to exceed
76 Five Hundred Dollars (\$500.00) per day for each day that the
77 violation exists beyond the date set by the court in its
78 injunction for the removal of the vessel and the restoration of
79 the coastal wetlands. Additionally, the owner or operator shall
80 be liable for reasonable attorneys' fees and all costs of court.

81 (4) Any reimbursed cost of removal and any fines and damages
82 collected in excess of the cost of the removal of the * * * vessel
83 and the restoration of the affected coastal wetlands shall be
84 deposited in a special fund in the State Treasury to be known as
85 the "Derelict Vessel Fund." The fund shall be administered by the
86 department. Any funds deposited in the fund shall be used to
87 cover the administrative costs and removal costs incurred by the
88 department for the removal of * * * vessels. Any remaining funds
89 shall be used as a match for municipal and county funds to cover
90 the costs of removing additional * * * vessels.

91 (5) Any sunken or submerged vessel in or on the coastal
92 wetlands within any designated navigation channel or within one
93 hundred (100) yards of the boundaries of any state, county or
94 municipal port may be declared a hazard to navigation and subject



95 to immediate removal and disposal by the department. Any sunken
96 or submerged vessel in or on the coastal wetlands that is leaking
97 any hazardous substances, chemicals or fuels may be declared an
98 environmental hazard and subject to immediate removal and disposal
99 by the department. The owners of a vessel removed in accordance
100 with this subsection shall be liable for the costs associated with
101 the salvage and disposal of the vessel and any damages to the
102 flora and fauna within the coastal wetlands.

103 (6) The department is authorized to enter into contracts
104 with individuals, firms and corporations for the removal of * * *
105 vessels. The salvage value, if any, of the * * * vessel may be
106 used to offset the cost of the removal of the vessel and the
107 restoration of the coastal wetlands. The department may enter
108 into noncompetitive contracts or agreements with any state or
109 federal entity for the removal of vessels.

110 (7) The commission shall adopt rules and regulations
111 necessary and appropriate to carry out * * * this section. The
112 commission may also enter into interstate or intrastate efforts
113 toward this end, and may seek and utilize aid from all federal,
114 state and local sources in this endeavor.

115 (8) The State of Mississippi, the commission, the department
116 and their employees and representatives shall not be liable for
117 any damage resulting from the removal, sale or disposal of any
118 vessel declared a derelict or hazardous vessel pursuant to this
119 section.

120 **SECTION 2.** This act shall take effect and be in force from
121 and after its passage.

